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OFFICE OF PETITIONS

In re Application of :
Addis, et al. :
Application No. 10/008,818 :
Filed: November 13, 2001 :
Attorney Docket No. 87839WRZ :
For: DIGITAL IMAGE OPTIMIZATION
INCORPORATING EVALUATION

ON PETITION

This is a decision on the petition filed September 21, 2006 (certificate of mailing date September 18, 2006) under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to timely reply to the Notice of Allowance and Fee(s) Due, mailed December 16, 2005, which set a non-extendable period for reply of three (3) months. Having received no reply, the Office considered the application abandoned on March 17, 2006. A Notice of Abandonment was mailed on April 24, 2006.

The Office received a valid Associate Power of Attorney containing a change of correspondence address on March 1, 2004. Unfortunately, the Office associated the correspondence with an incorrect application file until October 6, 2005, and even after associating the correspondence with the correct application file, did not enter the information found in the correspondence. This error resulted in the Notice of Allowance and Fee(s) Due and the Notice of Allowability being mailed to the previous correspondence address of record.

Petitioners have demonstrated that the correspondence at issue was not received at the correspondence address specified in the March 1, 2004 Associate Power of Attorney.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.¹

Petitioners have submitted a copy of the docket record where the requirements would have been entered had the December 15, 2005 Notices been received. In addition, practitioner referenced the record in the petition and stated that a review of the application's file jacket and docket records for the December 15, 2005 Notices was fruitless.

Petitioners have established non-receipt. The petition is granted, the Notice of Abandonment is vacated, and the holding of abandonment is withdrawn.

After the mailing of this decision, the application will be returned to Technology Center A.U. 2625 for the re-mailing of the December 16, 2005 Notice of Allowance and Fee(s) Due and the Notice of Allowability with a new period set for reply.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.



Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

¹ See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).